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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,892	12/30/2003	Yatao Hu	PQC-326US	7428

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EXAMINER

WEIER, ANTHONY J

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,892

Applicant(s)

HU ET AL.

Examiner

Anthony Weier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a silica xerogel composition, classified in class 423, subclass 338.
- II. Claims 23-26, drawn to a method of treating beer, classified in class 426, subclass 422.
- III. Claims 27-30, drawn to a process of preparing a silica xerogel composition, classified in class 423, subclass 338.

The inventions are distinct, each from the other because of the following reasons:

Inventions III and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the silica xerogel may be produced by a process wherein an organic (rather than mineral) acid is employed. In addition, the silica xerogel may be produced by a method as set forth in claim 1 of Balducci et al (U.S. Patent No. 5270027):

A process for preparing silica xerogels from alcogels, consisting of the following stages:

1) mixing a silica alcogel with at least one organic compound (I) to obtain an SiO.sub.2 -alcohol-(I) mixture (A);

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2) removing the alcohol by distillation to obtain an SiO.sub.2 --I mixture (B);

3) thermal treatment at a temperature between 100.degree. and 250.degree. C. to obtain an SiO.sub.2 --I mixture (C) in which the hydroxyl groups of some molecules of (I) are esterified with the silanol groups (Si--OH) of the silica;

4) separating a large part of the organic compound (I) which has not reacted during the thermal treatment of stage 3), by filtration and repeated washing with an alcohol to obtain a xerogel (D) containing the molecules of (I) esterified during stage 3) plus that part of the wash alcohol which had remained adsorbed;

5) drying the product (D) from stage 4) to obtain a xerogel (D) free of adsorbed alcohol;

6) calcining the xerogel (D) from stage 5) in an oxidizing atmosphere at a temperature of between 400.degree. and 600.degree. C., the process being characterised in that the organic compound (I) consists of an alkanolamine pertaining to the group of general formula: ##STR4## where R.sub.1 is a hydrogen atom or a --CH.sub.3, --C.sub.2 H.sub.5, --C.sub.3 H.sub.7, --C.sub.4 H.sub.9, --C.sub.2 H.sub.4 --OH, --C.sub.3 H.sub.6 OH, ##STR5## C.sub.4 H.sub.8 --OH or ##STR6## and R.sub.2 is a bivalent ethylene, propylene, isopropylene, butylene or isobutylene radical.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product may be used to remove contaminants from glyceride oils.

Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In

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the instant case the different inventions relate to a process for treating beer and a process for making a silica xerogel.

Because these inventions are distinct for the reasons given above and the entire search strategy required for any one of the groups is not required for any one of the other groups, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
Primary Examiner
Art Unit 1761

Anthony Weier
September 21, 2005



9/22/05